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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**  
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8 GEORGE W. LUSTER, JR.,

9 *Petitioner,*

10 vs.

11 DIRECTOR, NEVADA DEPARTMENT  
12 OF CORRECTIONS, *et al.*,

13 *Respondents.*

2:04-cv-00334-RLH-NJK

ORDER

14  
15 This habeas matter comes before the Court on petitioner's counsel's motion (#133) to  
16 withdraw as counsel and on petitioner's motion (#137) to stay consideration of the motion to  
17 withdraw.

18 The Court will grant the motion to stay consideration to withdraw to the extent that the  
19 Court will deny the motion to withdraw without prejudice. Counsel can file a new motion to  
20 withdraw if and as the circumstances warrant.<sup>1</sup>

21 The Court takes this action with one major caveat. The Court, repeatedly, has stated  
22 in this case that petitioner may communicate with the Court only through counsel. For  
23 example, in a May 16, 2011, order, the Court stated:

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25 This Court's April 20, 2011, order could not have been  
26 more clear or emphatic: . . . "that petitioner shall not file any  
papers *pro se*, and he shall not communicate otherwise with the  
Court except through counsel."

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28 <sup>1</sup>Counsel needs to select a proper description on CM/ECF when she files a motion. The description  
selected by counsel has no correlation to the actual motion. Misleading docket descriptions will not suffice.

1                . . . Petitioner further has directly violated the order by  
2 filing a *pro se* submission. He acknowledges receipt of the order,  
3 seeks to explain his prior *pro se* filing, and indicates that "I'll call  
4 you soon to further discuss the matter." The words "shall not file"  
5 and "shall not communicate" mean what they say. If petitioner  
6 has explanations, apologies, or other communications to present  
7 to the Court, he must present them through counsel.

8                The Court advised petitioner in the prior order as follows:  
9                "Any further violations of the Court's orders in [this] regard may  
10 lead to the imposition of sanctions, including dismissal of the  
11 petition." Petitioner previously has been advised in this case that  
12 he must communicate with the Court only through counsel, yet he  
13 continues to communicate with the Court *pro se*. The Court has  
14 few effective sanctions in this matter short of dismissal to secure  
15 compliance with its orders following upon repeated refusals to  
16 comply, as it appears that petitioner is without funds and is  
17 incarcerated under sentences of life without the benefit of parole.  
18 If petitioner continues to seek to communicate with the Court *pro  
19 se*, he will be directed to show cause forthwith – through counsel  
20 – why the petition should not be dismissed for his failure to  
21 comply with the repeated orders of this Court.

22                . . .  
23                Further disregard of the Court's orders – by counsel and/or  
24 by petitioner – will lead to harsher action being taken.

25                . . .  
26                IT FURTHER IS ORDERED that, within **ten (10) days** of  
27 entry of this order, petitioner's counsel additionally shall file a  
28 notice that counsel has provided petitioner with a copy of this  
order.

29                IT FURTHER IS ORDERED that #98 is STRICKEN and,  
30 once again, **that petitioner shall not communicate with the  
31 Court other than through counsel.**

32 #99, at 1-2 (emphasis in original).

33                That would seem to be a clear order.

34                Petitioner nonetheless has submitted multiple *pro se* communications (## 129, 130,  
35 132 & 136) to the Court since the time of the last, seemingly clear, order.

36                The Court's delay in screening the last amended pleading after counsel presented a  
37 prior pleading with numerous deficiencies does not provide any reason or justification  
38 whatsoever for these *pro se* filings. Any request for expedited or other relief in the district  
39 court must be presented by counsel and not petitioner *pro se*. Counsel has demonstrated

1 that she has the ability to file court papers seeking expedited relief, albeit not in a filing first  
2 in this Court. Nor is there any occasion for petitioner to file *pro se* copies of letters sent to  
3 counsel requesting that she take certain action. Further, petitioner may not request status  
4 updates or copies of documents from the Court or the Clerk; he must make those requests  
5 to his counsel. In short, as this Court thought that it had repeatedly made clear in this action:  
6 **"petitioner shall not communicate with the Court other than through counsel."**

7 Petitioner has run out of warnings.

8 If following notification of this order, petitioner presents the Court with any further *pro*  
9 *se* papers – other than a response to a then-pending motion to withdraw counsel – petitioner  
10 thereafter will be directed to show cause through counsel why the matter should not be  
11 dismissed for failure to comply with the repeated orders of the Court. Unless and until such  
12 time as petitioner is copied with an order from this Court granting a motion to withdraw as  
13 counsel without appointment of replacement counsel, petitioner shall make **all** status inquiries  
14 to counsel, not the Court, including as to the status of a motion to withdraw. Delay in the  
15 Court reaching a submission, again, does not provide cause for petitioner to communicate  
16 with the Court *pro se* rather than through counsel.

17 IT THEREFORE IS ORDERED that petitioner's motion (#137) to stay consideration of  
18 the motion (#133) to withdraw is GRANTED IN PART and DENIED IN PART, to the extent  
19 that petitioner's counsel's motion (#133) to withdraw as counsel is DENIED without prejudice.

20 IT FURTHER IS ORDERED that, within **ten (10) days** of entry of this order, petitioner's  
21 counsel additionally shall file a notice that counsel has provided petitioner with a copy of this  
22 order.

23 DATED: April 3, 2013.

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ROGER L. HUNT  
United States District Judge